

Weekly Federal Register Summary

Week of 12/14/2003

Prepared By
Naval Facilities Engineering Service Center
Code 42

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Introduction

About the Report:

This weekly federal regulatory summary contains summaries of Federal Register notices and other information and is provided as a service of Naval Facilities Engineering Service Center, Port Hueneme, CA for various Navy and Marine Corps environmental personnel. Content is screened to include environmental and health/safety items specifically relevant to the Navy/Marine Corps or of broad general relevance to DOD.

Meetings -

Meeting cancellations and date changes appear only in the Upcoming Meetings section; they are not re-entered in the Summary of Issues.

Subscription:

Interested DOD personnel may receive a free weekly e-mail of this report. To subscribe or unsubscribe, log on to <http://regscreen.nfesc.navy.mil/htm/Subscribe.htm>. Contractors can be added to distribution if endorsed by their DOD contract representative via e-mail to us at regdesk@nfesc.navy.mil. Include the DOD representative's name, e-mail, phone number, job title, command, and address and your e-mail, phone number, company, and contractual responsibility area. If you have problems, or need assistance please contact us at regdesk@nfesc.navy.mil or 805/982-1276.

Web Database:

A companion website is available at <http://regscreen.nfesc.navy.mil> (access limited to .mil domains) where you can find and retrieve items from past issues of the Weekly Regulatory Summary, or get an overview of upcoming regulations.

Feedback:

We have made every effort to ensure that the information provided is accurate and that all significant regulatory actions have been included. If you believe that an important issue has been omitted from this report or that the information is incorrect, please contact us at 805/982-1276 or 805/982-2640, or via e-mail at regdesk@nfesc.navy.mil. Suggestions for improvement are also appreciated.

If you have specific concerns or would like to provide information to support Navy/DOD impacts from identified issues, please forward an e-mail detailing your comments. Please include the title and date of the issue. We may be contacted at: regdesk@nfesc.navy.mil or call 805/982-1276.

Summary of Issues

1. General

Guidelines for Designating Biobased Products for Federal Procurement		Date: 12/19/2003
Action Type: Proposed Rulemaking		Cite: 68 FR 70730
Summary: The Department of Agriculture(USDA) is proposing to establish guidelines for designating items made from biobased products that would be afforded Federal procurement preference. The procurement preference applies to all Federal agencies with respect to all procurement actions where the purchase price of the item exceeds \$10,000 or where the quantity of such items purchased during the preceding fiscal year cost a total of \$10,000 or more. The proposed guidelines would provide that, prior to designating items for preferred procurement USDA would consider 1) availability of the items, 2) the economic feasibility, and 3) technological feasibility of using such items. In order to accomplish these requirements, USDA plans to initially rely, in part, on the information developed in a study by Concurrent Technologies Corporation (CTC) to address the statutory requirement for information on item availability. The CTC study can be viewed on the Web site http://www.biobased.oce.usda.gov . Following the issuance of final guidelines and the designation of items, Federal agencies would: - Give a procurement preference, with certain exceptions, to designated items with the highest percentage of biobased products practicable, consistent with the guidelines and with maintaining sufficient competition; - Incorporate in procurement specifications biobased item preferences consistent with the guidelines and the requirements of section 9002; and - Establish an agency affirmative procurement program that includes a biobased products preference program, an agency promotion program to promote the preference program, and an annual review to monitor the effectiveness of the agency's procurement program. Comments are due February 17, 2004.		
Potential Impact or Relevance: Provided for information only.		CFR References: 7 CFR 2902
Further Information: Marvin Duncan, USDA, Washington, DC, mduncan@oce.usda.gov , (202) 401-0532		
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31347.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-31347.pdf		

2. CAA

Nonattainment Designations for 8-Hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas	Date: 12/16/2003
Action Type: Proposed Rulemaking	Cite: 68 FR 70107
Summary: The EPA is proposing to defer the effective date of air quality designations for 33 communities, known as early action compact areas, throughout the country that do not meet the 8-hour ozone national ambient air quality standard (NAAQS) to September 30, 2005. Compact areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act requires. By April 15, 2004, EPA would designate all areas for the 8-hour ozone NAAQS and issue the first of three deferrals on September 30, 2005 for any compact area that is designated nonattainment and continues to meet all compact milestones. These compact agreements would give local areas: <ul style="list-style-type: none">- the flexibility to develop their own approach to meeting the 8-hour ozone standard;- control over emissions from local sources earlier than the CAA would otherwise require.- that realize reductions sooner, the health benefits of cleaner air sooner than might otherwise occur. 8-Hour Ozone Early Action Compact Areas include air districts in Arkansas Colorado, Georgia, Louisiana, Maryland, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, Texas, Tennessee, Virginia, and West Virginia. Comments are due by January 15, 2004.	
Potential Impact or Relevance: Provided for information only.	CFR References: 40 CFR 81
Further Information: David Cole, Office of Air Quality Planning and Standards, EPA, Research Triangle Park, NC, 919-541-5565, cole.david@epa.gov	
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31109.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-31109.pdf	

3. CAA

Interstate Transport of Fine Particulate Matter and Ozone	Date: 12/17/2003
Action Type: Proposed Rulemaking	Cite: EPA Press Releases
Summary: In advance of publication, EPA has posted a proposal to "find" that 29 States and the District of Columbia contribute significantly to nonattainment, or interfere with maintenance, of the national ambient air quality standards for fine particles (PM2.5) and/or 8-hour ozone in downwind States. The EPA is proposing to require these upwind States to revise their State implementation plans to include control measures to reduce emissions of sulfur dioxide (SO2) and/or nitrogen oxides (NOx). EPA is proposing that the emissions caps for the affected States be implemented in two phases, with the first phase in 2010 and the second phase in 2015. The first phase caps would be 3.9 million tons for SO2 and 1.6 million tons for NOx. The proposed emissions reductions would be met by affected States using one of two options for compliance: 1) participating in an interstate cap and trade system that caps emissions from the electric generating sector; or 2) meeting an individual State emissions budget through measures selected by the State. Comments are due 60 days from publication.	
Potential Impact or Relevance: Potential interest to electrical generating facilities and of general interest to those involved in SIP discussions.	CFR References: 40 CFR 51 40 CFR 72 40 CFR 75 40 CFR 96
Further Information: Scott Mathias, EPA, Air Quality Strategies and Standards Division, Research Triangle Park, NC, (919) 541-5310, mathias.scott@epa.gov .	
Full Text Document Location: http://www.epa.gov/interstateairquality/iaqr_preamble_final_v1.pdf	

4. CAA

NESHAPs; and, in the Alternative, Proposed Standards of Performance for Electric Utility Steam Generating Units	Date: 12/15/2003
Action Type: Proposed Rulemaking	Cite: EPA Recent Additions
Summary: In advance of publication, EPA has posted a proposed regulation that would require coal- and oil-fired utility units to meet hazardous air pollutant (HAP) emissions standards reflecting the application of the maximum achievable control technology (MACT) for mercury and nickel. EPA also is co-proposing and soliciting comment on implementing a cap-and-trade program for mercury. The rule establishes emission limits by fuel type (bituminous, Subbituminous, Lignite, Coal refuse, and residual oil) in terms of either lb/Tbtu or lb/MWh. Compliance with the Hg emission limit would be determined based on a rolling 12-month average calculation. Today's proposed amendments to CAA section 111 rules would establish a mechanism by which Hg emissions from new and existing coal-fired utility units would be capped at specified, nation-wide levels. A first phase cap would become effective in 2010 and a second phase cap in 2018. Facilities would demonstrate compliance with the standard by holding one "allowance" for each ounce of mercury emitted in any given year. Allowances would be readily transferrable among all regulated facilities. A web site related to the rule has been established at: http://www.epa.gov/mercury/actions.htm utility	
Potential Impact or Relevance: Potential interest to power plant operators	CFR References: 40 CFR 51 40 CFR 52 40 CFR 60 40 CFR 63
Further Information: William Maxwell, Emission Standards Division, EPA, Research Triangle Park, NC, (919) 541-5430, , maxwell.bill@epa.gov .	
Full Text Document Location: http://www.epa.gov/mercury/actions.htm utility	

5. CERCLA

Court Decision: Application of CERCLA At Overseas Bases	Date: 12/3/2003
Action Type: Judicial Decision	Cite: Court Decision
Summary: The U.S. District Court for the Northern District of California found on December 3, 2003 that CERELA does not apply extraterritorially to properties located in another nation. The court dismissed a lawsuit against the Defense Department to cleanup the former Clark Air Force Base and Subic Bay Naval Base in the Philippines. The court dismissed the plaintiffs' contention that reporting provisions in the Defense Environmental Restoration Program statute indicate Congress' intent to apply CERCLA to military facilities on foreign lands. The court said that, "The fact that Congress instructed the Secretary of Defense to report on funds spent on overseas environmental remediation or on fines assessed against military installations outside the United States in no way demonstrates that Congress intended CERCLA to apply to former bases located in sovereign foreign countries." A copy of the decision is available at: http://www.cand.uscourts.gov/cand/judges.nsf/5c366d37fc7c791088256d480060b73a/035728e41644097a88256df6007f3b01/\$FILE/02cv5651gdm2.pdf	
Potential Impact or Relevance: This item does not constitute creation of a new legal requirement and may not have validity in all jurisdictions. If you believe this decision may impact your ongoing environmental compliance efforts, you should seek in-house legal advice or contact your chain of command prior to taking any action.	CFR References:
Further Information: No contact information provided.	
Full Text Document Location: http://www.cand.uscourts.gov/cand/judges.nsf/5c366d37fc7c791088256d480060b73a/035728e41644097a88256df6007f3b01/\$FILE/02cv5651gdm2.pdf	

6. *Hazardous Material Transportation*

Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines)	Date: 12/15/2003
Action Type: Final Rule	Cite: 68 FR 69777
Summary: Research and Special Programs Administration has issued a final rule that requires gas pipeline operators to develop integrity management programs for gas transmission pipelines located where a leak or rupture could do the most harm such as in high consequence areas. The rule requires gas transmission pipeline operators to: <ul style="list-style-type: none">- perform ongoing assessments of pipeline integrity;- to improve data collection;- integration, and analysis;- to repair and remediate the pipeline as necessary;- to implement preventive and mitigative actions. Date effective: January 14, 2004.	
Potential Impact or Relevance: Provided for information only.	CFR References: 49 CFR 192
Further Information: Mike Israni, Research and Special Programs Administration, 202-366-4571, mike.israni@rspa.dot.gov	
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-30280.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-30280.pdf	

7. *Natural and Cultural Resources*

Court Decision; Puget Sound Orca Whales		Date: 12/18/2003
Action Type: Judicial Decision		Cite: Press Report
Summary: A federal judge in the Western District of Washington has ordered the National Marine Fisheries Service to reconsider its finding that Washington state's orca population is not significant and does not warrant protection under the Endangered Species Act. The National Marine Fisheries Service last year listed killer whales in Puget Sound as depleted but not endangered, a move that protected individual orcas but not their habitat. The Puget Sound orca population numbers 84, down from an unknown high that the plaintiffs suggested could have topped 200 at one time.		
Potential Impact or Relevance: This item does not constitute creation of a new legal requirement and may not have validity in all jurisdictions. If you believe this decision may impact your ongoing environmental compliance efforts, you should seek in-house legal advice or contact your chain of command prior to taking any action.		CFR References:
Further Information: No contact information provided.		
Full Text Document Location: http://www.earthjustice.org/news/documents/12-03/Order_12-17-03.pdf		

8. *Natural and Cultural Resources*

Aquatic Nuisance Species Task Force Mississippi River Basin Panel Meeting	Date: 12/18/2003
Action Type: Meeting Announcement	Cite: 68 FR 70529
Summary: The Aquatic Nuisance Species (ANS) Task Force Mississippi River Basin Regional Panel will meet on January 8-9, 2004 in New Orleans, LA. The agenda includes: <ul style="list-style-type: none">- development of national and state ballast water regulations;- presentations on round goby predation on smallmouth bass eggs;- updates on Asian Carp, bighead and silver carp risk assessments;- updates on white perch and distribution of ANS in the Basin;- discussions on pathways and prevention activities such as the use of Hazard Analysis and Critical Control Point in fish hatcheries;- a report on an Asian carp barrier feasibility study initiated by the Minnesota DNR;- updates from panel member organizations and states.	
Potential Impact or Relevance: Provided for information only.	CFR References:
Further Information: Jay Rendall, Mississippi River Basin Panel Chair and Exotic Species Program Coordinator, Minnesota Department of Natural Resources, (651) 297-1464.	
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31211.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-31211.pdf	

9. *Natural and Cultural Resources*

Draft Recovery Plan for the Blackburn's Sphinx Moth		Date: 12/18/2003
Action Type: Notice and Request for Comments		Cite: 68 FR 70528
Summary: The Fish and Wildlife Service is releasing the Draft Recovery Plan for the Blackburn's Sphinx Moth for public review and comment. This Blackburn's Sphinx Moth is currently known to occur on three of the seven Hawaiian Islands where it historically occurred, including Hawaii, Maui, and Kahoolawe. Some habitat is under public ownership and zoned for conservation purposes, but no known sphinx moth habitat complexes are entirely protected, and the species faces threats throughout its range. The sphinx moth is currently found in association with topographically diverse landscapes that contain low to moderate levels of nonnative vegetation. The recovery plan is available at the Hawaii State Library 478 S. King Street, Honolulu, HI. Comments are due February 17, 2004.		
Potential Impact or Relevance: Provided for information only.		CFR References:
Further Information: Pacific Islands Fish and Wildlife Office, Fish and Wildlife Service, Honolulu, H I, 808-541-3441		
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31189.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-31189.pdf		

10. NEPA

Weekly Receipt of Environmental Impact Statements	Date: 12/19/2003
Action Type: Notice	Cite: 68 FR 70795
Summary: The following item has been submitted to EPA: DRAFT EIS, USN, WA, Fox Island Laboratory Stabilization of In-Water Facilities, Naval Surface Warfare Center, Carderock Division, Pierce County, WA, due: February 2, 2004, contact: Kimberly Kler (360) 396-0927. DRAFT EIS EIS No. 030556	
Potential Impact or Relevance: Provided for information only.	CFR References:
Further Information: Kimberly Kler, 360-396-0927	
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31353.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-31353.pdf	

11. NEPA

Environmental Impact Statements and Regulations; Availability of EPA Comments		Date: 12/19/2003
Action Type: Notice		Cite: 68 FR 70794
Summary: The following is a summary of comments issued by EPA to the following project: DRAFT EIS Rating EC2, Tertiary Treatment Plant and Associated Facilities Construction and Operation, Implementation, Marine Corps Base Camp Pendleton, San Diego County, CA. Summary: EPA raised environmental concerns that the Proposed Action did not incorporate ground water recharge or reuse/treatment wetland components, which could benefit the Santa Margarita River and its riparian ecosystem. EPA raised concerns that potentially feasible mitigation may not be presented because impacts are not significant, and that no mitigation is proposed for solid waste generated by the project, including demolition waste. EPA requested a discussion of whether polychlorinated biphenyls (PCBs) are present in materials at sewage treatment plants proposed for demolition. ERP No. D-USN-K11112-CA		
Potential Impact or Relevance: Provided for information only.		CFR References:
Further Information: No contact information provided.		
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31352.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-31352.pdf		

12. NEPA

National Environmental Policy Act Task Force Report		Date: 12/16/2003
Action Type: Meeting Announcement		Cite: 68 FR 70013
Summary: The Council on Environmental Quality (CEQ), NEPA Task Force has announced another roundtable meeting in the series addressing efforts to improve federal agency decision-making by modernizing the NEPA process. The Rocky Mountain Regional NEPA Roundtable will be held in Copper Mountain, CO on January 8-9, 2003.		
The CEQ report on this effort is available at: http://ceq.eh.doe.gov/ntf/report/index.html		
Potential Impact or Relevance: Provided for information only.		CFR References:
Further Information: Bill Perhach, (202) 395-0826		
Full Text Document Location: http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-30946.htm http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-30946.pdf		

Upcoming Meetings

General

Science Advisory Board; Upcoming Meetings

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-29431.htm>

Location	Start Date	Start Time	Duration	Details
Telephone Conference; Eastern Std. Time,	12/22/2003	12:00 PM	1 Day	Council on Clean Air

General

National Pollution Prevention and Toxics Advisory Committee

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-30048.htm>

Location	Start Date	Start Time	Duration	Details
Washington, DC	1/7/2004	10:00 AM	2 Days	

Climate Change And Energy

Guidelines for Voluntary Greenhouse Gas Reporting

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-29983.htm>

Location	Start Date	Start Time	Duration	Details
Washington, DC	1/12/2004	8:00 AM	1 Day	

Natural and Cultural Resources

Aquatic Nuisance Species Task Force Mississippi River Basin Panel Meeting

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-31211.htm>

Location	Start Date	Start Time	Duration	Details
New Orleans, LA	1/8/2004	8:00 AM	2 Days	

NEPA

National Environmental Policy Act Task Force Report

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-30946.htm>

Location	Start Date	Start Time	Duration	Details
Copper Mountain, CO	1/8/2004	9:00 AM	2 Days	

OSHA

Safety Standards for Cranes and Derricks

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-28767.htm>

Location	Start Date	Start Time	Duration	Details
Las Vegas, NV	1/5/2004	1:00 PM	3 Days	

OSHA

Assigned Protection Factors for Respiratory Protection

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-28357.htm>

Location	Start Date	Start Time	Duration	Details
Washington, DC	1/28/2004	10:00 AM	1 Day	

SDWA

Market Enhancement Opportunities for Water-Efficient Products

Full Text

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-29432.htm>

Location	Start Date	Start Time	Duration	Details
Austin, TX	1/15/2004	9:00 AM	1 Day	